

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS (HOUSTON)

IN RE: . Case No. 22-90168
CINEWORLD GROUP, PLC, et al., . Chapter 11
Debtors. . 515 Rusk Street
Houston, TX 77002
Wednesday, June 28, 2023
9:00 a.m.

TRANSCRIPT OF PLAN CONFIRMATION HEARING
BEFORE THE HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY COURT JUDGE

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BRIAN WECKINGTON
JUSTIN LUPE



I N D E X
6/28/23

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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FOR THE DEBTORS:

Michael Schlappig	--	22	--	--
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EXHIBITS

ADMITTED

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1 (Proceedings commence at 9:00 a.m.)

2 THE COURT: Good morning. Please be seated.

3 Good morning. We're here in the Cineworld Group, PLC
4 case. It is 22-90168. The order of presentation today will be
5 as follows. We're going to begin with an opening statement by
6 the debtor. We'll then take opening statements by any party
7 that supports confirmation of the plan and wishes to make an
8 opening statement. We'll then take opening statements by any
9 party that opposes confirmation of the plan. We will then
10 proceed to the evidentiary record, and in the evidentiary
11 record, we will comply with the Federal Rules of Evidence, take
12 in the evidence. And we'll then have closing arguments, and
13 then the Court will render a decision.

14 So we're going to start with the debtor.
15 Mr. Sussberg, good morning.

16 MR. SUSSBERG: Good morning, Your Honor. Joshua
17 Sussberg, Kirkland & Ellis on behalf of Cineworld. I apologize
18 to the Court for not being in the Houston heat.
19 Notwithstanding the heat, I tried to get down, and all flights
20 have been cancelled because of the weather. So thank you for
21 allowing me to appear virtually. I am going to speak in the
22 closing, and my partner, Ms. Foster, is going to handle our
23 opening statement.

24 THE COURT: Thank you.

25 Ms. Foster.



1 MS. FOSTER: Good morning, Your Honor. Ciara Foster,
2 Kirkland & Ellis on behalf of the debtors. Your Honor, I'm
3 joined in the courtroom today by my partner, Mr. Campbell, as
4 well as my colleague, Mr. Candel, as well as the debtors' chief
5 restructuring officer, Mr. Mesterharm. As Mr. Sussberg noted,
6 unfortunately certain folks are not here today, including
7 Mr. Sussberg, Mr. Schlappig, the debtors' investment banker, as
8 well as Mr. Daloia, our claims and noticing agent.

9 We're happy to be here today, Your Honor, and
10 thrilled to say that we're proceeding on a entirely consensual
11 basis, with the exception of certain shareholder letters and
12 motions that have been filed on the docket, which we will
13 address in due course.

14 As for how we plan to proceed today, Your Honor, I'm
15 going to cede the podium to Mr. Campbell, who is going to
16 handle the evidentiary record after I finish my opening
17 remarks, as well as Mr. Candel, who will walk you through the
18 order and address any questions you have on the plan or the
19 order language. And finally, as Mr. Sussberg previewed, he
20 will handle the closing.

21 THE COURT: Thank you. Is there any other party that
22 wishes to make any opening statement in support of confirmation
23 of the plan.

24 MR. PEREZ: Good morning, Your Honor.

25 THE COURT: Good morning.



1 MR. PEREZ: Alfredo Perez, I'm here with Theo Heckel
2 on behalf of the Committee. And, Your Honor, after many rounds
3 of discussions and negotiations, the creditors' committee is
4 fully supportive of the plan. There have been numerous
5 concessions that were made, and we're very happy to be here and
6 would very much like confirmation of plan. Thank you.

7 THE COURT: Thank you. Mr. Perez, one of the issues
8 in the case is whether there is equity for shareholders. What
9 is the expected return to the general unsecured creditors in
10 the case?

11 MR. PEREZ: Your Honor, it depends on the claims, but
12 the return is certainly no more than about 3 percent, at most,
13 assuming that every -- that the claims come in where we think
14 they're going to come in and we are on the high side of the
15 various recoveries. So I mean we're talking about probably \$18
16 million of value at most, going to probably a billion-six of
17 unsecured claims without any deficiency from the secured
18 creditors, so --

19 THE COURT: Thank you.

20 Yes, sir.

21 MR. LOHAN: Good morning, Your Honor. Brian Lohan on
22 behalf of the ad hoc group. I have nothing substantive to add
23 to what Ms. Foster said, or what Ms. Foster said or Mr. Perez
24 said. We're happy to be here proceeding with confirmation, and
25 we support entry of the order.



1 THE COURT: Thank you, Mr. Lohan.

2 If there's anyone on the phone that wishes to make a
3 statement in support of confirmation, please press "five star"
4 one time on your line, and we'll get you recognized.

5 All right. Is there anyone in the courtroom that
6 wishes to oppose confirmation of the plan in an opening
7 statement?

8 Is there anyone on the telephone that wishes to
9 oppose confirmation in an opening statement? If you do, you
10 need to press "five star" on your line so that we can locate
11 you. No? From the United Kingdom, the last digits are 4226.
12 Who do we have on the telephone? Yes, from 447-931-034-226.
13 Who do we have on the telephone?

14 MR. WECKINGTON: Good morning.

15 THE COURT: Good morning. Tell me your name --

16 MR. WECKINGTON: Good afternoon.

17 THE COURT: Tell me your name, please.

18 MR. WECKINGTON: My name is Brian -- my name is Brian
19 Weckington, I'm an individual shareholder.

20 THE COURT: Okay. I can't understand you. Can you
21 please pick up your phone?

22 MR. WECKINGTON: Okay. Can you hear me now?

23 THE COURT: That is better. Tell me your name,
24 please.

25 MR. WECKINGTON: My name is Brian Weckington, I'm an



1 individual shareholder. I'm just --

2 THE COURT: I'm having trouble -- I'm have a lot of
3 trouble hearing you. Did you pick up your phone?

4 MR. WECKINGTON: Yes.

5 THE COURT: Okay. You're --

6 MR. WECKINGTON: My name is Brian Weckington, I'm an
7 individual shareholder of Cineworld.

8 THE COURT: I cannot understand the words that you're
9 saying.

10 MR. WECKINGTON: Can you hear me? Can you hear me?

11 THE COURT: No. I mean, I can hear that there are
12 words coming out, but I can't tell what you're saying.

13 MR. WECKINGTON: For the (indiscernible) -- can you
14 hear me now?

15 THE COURT: Would you like to dial back in? We'll
16 wait for you.

17 MR. WECKINGTON: Okay. Thank you.

18 THE COURT: We're going to take a moment, wait for
19 him to get reconnected. (Pause) Yes, is this the person that
20 had just disconnected because we couldn't understand you?
21 Someone has just dialed in from 447-443-130-982, but you just
22 hung up the phone. We'll wait again. Yes, sir, thank you for
23 dialing back in.

24 MR. WECKINGTON: Yes, sorry, can you hear me?

25 THE COURT: Yes, that's much better. So I think your



1 first name was Brian, but I missed your last name. So if we
2 can get you to just start over.

3 MR. WECKINGTON: Yes.

4 THE COURT: Thank you.

5 MR. WECKINGTON: It's Brian Weckington, and I really
6 only wanted to question about the possible -- I'm an individual
7 shareholder in Cineworld, invested 10,000 pound I'm going to
8 lose almost the whole of, maybe a few hundred pound left from
9 that. To do with the valuation, I feel very strongly that the
10 valuation should be done in a more impartial way. I feel it's
11 a bit one-sided towards the -- the bankers and Cineworld.
12 Quite in the interest of justice, I think we should get another
13 valuation. I think it's very important. That's all I've got
14 to ask for.

15 THE COURT: Thank you. When we get to the
16 evidentiary record, you should feel free to cross-examine
17 witnesses. I will leave your line open, and you also can
18 introduce your own evidence if you wish. All right.

19 MR. WECKINGTON: Yeah, I don't really have all the
20 evidence. I have just the evidence from everything and -- and
21 social sites and what have you. But I just feel strongly that
22 there's not been a proper valuation by a proper professional
23 valuation from -- up to this moment. I think it's very
24 important that we another evaluation that takes (indiscernible)
25 the recovery. This is a once-in-a-hundred-years event that



1 took place, people were losing their life savings.

2 (Indiscernible) done fairly and justice -- the courts have the
3 justice for all, even the poor man. That's all I want to say.

4 THE COURT: Thank you, sir.

5 MR. WECKINGTON: Thank you.

6 THE COURT: All right.

7 MR. WECKINGTON: Thank you.

8 THE COURT: Does anyone else wish to make an opening
9 statement in opposition to confirmation? If so, you'll need to
10 press "five star" one time on your line.

11 All right. I'm going to show that that concludes the
12 opening statement segment of today's hearing. We're going to
13 move into the evidentiary record at this point.

14 MR. CAMPBELL: Good morning, Your Honor. Gavin
15 Campbell of Kirkland & Ellis on behalf of the debtors.

16 THE COURT: Good morning, Mr. Campbell.

17 MR. CAMPBELL: Your Honor, we'd like to start by
18 offering the evidence that is not Mr. Schlappig's opinions and
19 the valuation testimony that we've heard some concerns about
20 and I know was the subject of a motion that hit the docket
21 yesterday afternoon. So, Your Honor, the debtors filed a
22 witness and exhibit list last night at Docket 1964 that puts
23 all of the exhibits and declarations in a single place. So
24 first, Your Honor, the declaration of James Mesterharm, the
25 debtors' chief restructuring officer, which is Exhibit 2 on the



1 debtors' list, Docket Number 1964-2, and Mr. Mesterharm is
2 present in the courtroom today.

3 THE COURT: All right. Is there anyone that objects
4 to the admission of Mr. Mesterharm's declaration?

5 MR. LOHAN: No objections Your Honor.

6 THE COURT: Okay. 1964-2, Mr. Mesterharm's
7 declaration, is admitted.

8 (ECF Number 1964-2 admitted into evidence)

9 THE COURT: Is there any party that has any
10 cross-examination for Mr. Mesterharm? All right. Let's move
11 ahead.

12 MR. CAMPBELL: Yes, Your Honor. Next the debtors
13 would offer into evidence the declaration and voting report of
14 James Daloia of Kroll, which is Exhibit 3 on the debtors'
15 exhibit and witness list at Docket Number 1964, and Mr. Daloia
16 should be available on the GoTo Meeting.

17 THE COURT: Thank you. Is there any objection to the
18 admission of the voting report?

19 MR. LOHAN: No objection, Your Honor.

20 THE COURT: Is there anyone that has any
21 cross-examination for Mr. Daloia? Okay. The voting tabulation
22 report is admitted.

23 (ECF Number 1964-3 admitted into evidence)

24 THE COURT: It's my understanding that the classes
25 that rejected, and I think there were either three or four, I



1 could go back and count, had one vote rejecting, stipulated at
2 a value of a dollar, and no votes accepting, and that all other
3 classes accepted under the Bankruptcy Code. Is that correct?

4 MR. CAMPBELL: I believe, Your Honor, that there were
5 a couple classes like that of the four, but I believe there was
6 at least one class where there was a vote to accept, a vote to
7 reject, and I think there was another class where there were a
8 number of rejecting votes, but I can --

9 MR. LOHAN: I can -- Your Honor, there was a
10 Picturehouse that --

11 THE COURT: So hold on a second. For the gentleman
12 from the United Kingdom, you need to put your -- you need to
13 quiet your phone, please, we're getting a lot of background
14 noise from you.

15 Go ahead, please.

16 MR. PEREZ: Your Honor, Mr. Campbell is correct.
17 There were two classes where there was just a single dollar
18 vote that rejected. There was a third class which had \$4.56, I
19 believe, in favor and \$1 against. So that rejected because of
20 the numerosity. And then, there was the one single debtor,
21 Picturehouse, which I believe is one of the English debtors
22 that had actual votes -- a couple of votes rejecting.

23 THE COURT: Thank you. All right.

24 MR. CAMPBELL: Yes, Your Honor. Next, the debtors
25 would offer into evidence the affidavits of solicitation and



1 publication that are Exhibits 10 to 15 on the debtors' exhibit
2 and witness list at Docket Numbers 1964-10, 1964-11, 1964-12,
3 1964-13, 1964-14, and 1964-15.

4 THE COURT: Is there any objection to the affidavits
5 of publication?

6 MR. PEREZ: No objection, Your Honor.

7 THE COURT: All right. The affidavits of publication
8 are admitted. They are 1964-10 through 15.

9 (ECF Numbers 1964-10 through 1964-15 admitted into
10 evidence)

11 MR. CAMPBELL: Thank you, Your Honor. Then --

12 UNIDENTIFIED: (Indiscernible).

13 THE COURT: I'm sorry, who was that? Do we have an
14 objection? All right. Go ahead please.

15 MR. CAMPBELL: Yes, Your Honor. Then, the last item
16 of evidence that we had intended to introduce was the
17 declaration of Mr. Schlappig of PJT Partners, which is Exhibit
18 1 on the debtors' witness and exhibit list at 1964-1.

19 Mr. Schlappig should be available on the GoTo Meeting. But I
20 know that there is the outstanding motion concerning Daubert
21 that was filed yesterday afternoon. So before I offer that
22 declaration into evidence, I want to briefly address a couple
23 points concerning that motion if that is acceptable to Your
24 Honor.

25 THE COURT: Go ahead.



1 MR. CAMPBELL: Yes, Your Honor. So as you know,
2 Mr. Schlappig testified at the equity committee hearing about
3 the valuation opinions that he holds, about the valuation work
4 that he has performed in this case, and that came in without
5 any Daubert objection. Mr. Schlappig's declaration that we
6 have filed reiterates that valuation work and the opinions that
7 he expressed at the equity committee hearing, and those were
8 also described in Exhibit D to the disclosure statement.

9 In response to the Daubert objection that we saw
10 yesterday that was, I think, largely a motion to reconsider
11 your reconsideration decision, but also a Daubert motion, there
12 are essentially three points that I wanted to emphasize. First
13 is that the motion appears to somewhat misapprehend what
14 Mr. Schlappig's opinions and valuation work consists of,
15 because the reports -- or excuse me, the motion specifically
16 says that it would like to have a report where a comparable
17 company's and a discounted cash flow analysis are performed.
18 And as Mr. Schlappig testified at the equity committee hearing,
19 as was reflected in the disclosure statement exhibit and as
20 reflected in his current declaration, those analyses were in
21 fact conducted here.

22 Second, there is no doubt that those valuation
23 methodologies are reliable valuation methodologies for purposes
24 of a Daubert analysis. Those are bedrock valuation
25 methodologies. And indeed, the motion itself endorses those



1 methodologies and seeks to have them performed here. And
2 additionally, the valuation opinions that Mr. Schlappig offered
3 here are bolstered by a marketing process that was conducted on
4 a third-party, arm's-length basis, and extensive marketing
5 process which is, we would submit, perhaps most reliable type
6 of valuation evidence. And third, there can be no real dispute
7 about Mr. Schlappig's background and his qualifications, which
8 he previously testified to at the equity committee hearing, and
9 which are again set forth in his declaration. So, Your Honor,
10 we would as a result move Mr. Schlappig's declaration at 1945
11 -- 1964-1 into evidence, and ask that any Daubert objection be
12 overruled.

13 THE COURT: All right. Who do we have that wishes to
14 prosecute the Daubert objection? Please press "five star" one
15 time on your phone, and we're going to get you recognized. Do
16 we have Mr. Ionut-Lucian Grama on the phone? If so, please
17 press "five star" on your line. That's the individual that
18 filed the Daubert objection, I believe.

19 All right. We have no one here to prosecute the
20 Daubert objection. I have an independent duty to determine
21 whether expert testimony is admissible under the Supreme
22 Court's Daubert opinion. Taking into light the objection, and
23 I have reviewed the report, I think that the objection may
24 misunderstand what occurred. What occurred is appropriate
25 under Daubert. First, there's no question that the witness



1 himself is qualified to give the opinion. Second, he gives a
2 report in which he -- I'm going to go ahead and mute the line
3 from UK. If you wish to speak again in a moment, you're
4 certainly free to do that. You'll need to press "five star"
5 again, but there's way too much background noise coming in.

6 The report indicates that he has done, in fact, all
7 of the work that is referenced in the objection letter. And
8 the objection letter I think is correct that that's the kind of
9 work that ought to occur with respect to doing this kind of
10 evaluation. The report then says, but I don't see the detail,
11 the backup detail -- excuse me, the objection says, I don't see
12 the backup detail that I would expect to have been done. The
13 report itself doesn't need to include the backup detail. It
14 needs to describe generally what was done and give the
15 conclusions. And then, parties are allowed to take discovery
16 or otherwise ask questions about the backup work under a
17 Daubert analysis. There is nothing in the objection that
18 indicates that there was any formal discovery done so that the
19 person could get the backup data, nor any indication that the
20 backup data was refused.

21 I find that the methodologies that were used based on
22 the witness's testimony that is now being offered meets the
23 requirements of Daubert, and I'm admitting the valuation
24 analysis. In particular, as I highlighted when Mr. Perez was
25 making his opening statement, in addition to sort of the normal



1 discounted cash flow or comparative analysis, we have what
2 actually happened in this case. And the evidence shows that
3 there was extensive marketing of the assets, and the Official
4 Committee fully and well-funded with people that could go do
5 competing evaluation has agreed to recommend and support the
6 plan when creditors are going to take a 96 percent loss. That,
7 more than anything, proves that in the marketplace, the debtor
8 is hopelessly insolvent. There may be contrary evidence to
9 that, and I'm going to listen to that contrary evidence today.
10 But I'm admitting this -- I'm overruling the Daubert objection.
11 I'm now going to not only admit the declaration, but subject
12 the witness to examination. So if any party wishes to examine
13 the witness, please press "five star" on your line.

14 All right. No party apparently wishes to examine the
15 witness. Go ahead, please, Mr. Campbell.

16 MR. CAMPBELL: Your Honor, that concludes the
17 debtors' evidentiary presentation in support of confirmation,
18 thank you.

19 THE COURT: Thank you. Is there any other party that
20 wishes to introduce any evidence today in support of
21 confirmation of the plan? Is there any party that wishes to
22 introduce any evidence today in opposition to confirmation of
23 the plan? I see no one in court.

24 Is there anyone on the phone that wishes to introduce
25 any evidence in opposition to confirmation of the plan? If so,



1 please press "five star" on your line. Out of an abundance of
2 caution, I'm going to re-open the line where we were getting
3 all the noise in case that individual wishes to ask any
4 questions. Give me just a moment.

5 Yes, sir. Are there any questions for the witness
6 from you, sir?

7 MR. WECKINGTON: I have really maybe one question,
8 it's not really a question as such, it's more a statement.

9 THE COURT: If you do have question --

10 MR. WECKINGTON: What?

11 THE COURT: -- let me get the witness sworn in so
12 that we can -- we've admitted his declaration, but now I'm
13 going to let you ask him questions under oath. If the witness
14 would please press "five star" one time on the phone?
15 Mr. Schlappig, I see you there, hold on. Again, the person
16 from Great Britian, it's really going to help if you pick up
17 your phone. We get a huge amount of background when we're on a
18 speaking phone, so it's hard to hear you.

19 Mr. Schlappig --

20 MR. WECKINGTON: (Indiscernible).

21 THE COURT: -- would you raise your hand please,
22 Mr. Schlappig?

23 MICHAEL SCHLAPPIG, DEBTORS' WITNESS, SWORN

24 THE COURT: Thank you. Go ahead, sir. From Great
25 Britain, please feel free to ask your questions of the witness.



1 CROSS-EXAMINATION

2 BY MR. WECKINGTON:

3 Q Sorry, I wasn't expecting -- well, I've got -- really I've
4 only got one question really. That's -- it's simply just about
5 this. There must be a -- is it -- is it -- I would like to ask
6 you is it a true fact that Mooky Greidinger is going to
7 receive, and the other people, his brother, are going receive
8 35 million? That cannot be fair? How is that -- no one's life
9 is that fair.

10 THE COURT: Okay. I cannot --

11 MR. WECKINGTON: Go by God and give it to the
12 shareholders.

13 THE COURT: I cannot understand what you're saying.
14 If you could talk a little bit more slowly, please?

15 BY MR. WECKINGTON:

16 Q Yes, I'm questioning the 35 million that Mooky and Israel
17 and the other two people from the firm are going to get. How
18 is that fair to all the shareholders are left bankrupt, but yet
19 he's going to get 35 million?

20 MR. CAMPBELL: Your Honor, I would object to that
21 question.

22 THE COURT: Do you have a question for him?

23 BY MR. WECKINGTON:

24 Q I'd like to ask if that's the case? Is Mooky and Israel
25 going to receive 35 million?



1 THE COURT: What is your question?

2 BY MR. WECKINGTON:

3 Q (Indiscernible).

4 THE COURT: Ask him a question.

5 BY MR. WECKINGTON:

6 Q Is Mooky Greidinger and Israel and the other two employees
7 being keep 35 million between them as a sweetener?

8 THE COURT: I'm sorry, I can't understand you. Can
9 you talk slowly and ask a question, not a statement, please?

10 BY MR. WECKINGTON:

11 Q I'm asking -- the question that I'm asking, is it true
12 that Mooky and his brother, Israel, and two other employees are
13 going to receive 35 million between them?

14 THE COURT: All right. Go ahead, Mr. Schlappig.

15 THE WITNESS: Yeah, absolutely. I'm personally not
16 close to the specific terms of this payment. What I do
17 understand is that there is a transition services agreement
18 that was entered into with, I believe, four members of
19 management, to ensure a seamless transition to the new
20 management team.

21 BY MR. WECKINGTON:

22 Q Sorry -- sorry, when you say a seamless transition, you
23 mean seamless for who? For them? Or for the shareholders, or
24 for the (indiscernible) --

25 A For the new --



1 Q (Indiscernible) --

2 A For the new stakeholders in the business.

3 Q Right. Do you think that is morally right for that to
4 happen and the shareholders to be left with nothing? Why in
5 God's earth don't you spit that between the shareholders?

6 MR. CAMPBELL: I'll object on relevance grounds, Your
7 Honor.

8 THE COURT: Overruled.

9 MR. WECKINGTON: Come on.

10 THE COURT: Mr. Schlappig --

11 MR. WECKINGTON: Absolutely --

12 THE COURT: -- you can answer the question.

13 MR. WECKINGTON: -- it's immoral.

14 THE COURT: Mr. Schlappig, you can answer the
15 question.

16 THE WITNESS: Yeah, it ensures that the business
17 continues to operate in a manner that maximizes value for all
18 stakeholders going forward.

19 BY MR. WECKINGTON:

20 Q Yeah, and why does he need 35 million? Why does he need
21 that?

22 A My understanding -- and I was not part of the negotiation.
23 My understanding was that this was an arm's length negotiation
24 between the stakeholders and the management team.

25 Q Can I ask you a question? Do you think that's immoral?



1 MR. CAMPBELL: I would object on relevance grounds on
2 immorality.

3 BY MR. WECKINGTON:

4 Q That human beings -- it's immoral. We all know it's
5 immoral. Lord knows it's immoral, it's an injustice.

6 THE COURT: Hang on, hold on a minute. I have an
7 objection to your question. I'm going to overrule the
8 objection. I think that we have a layperson that is
9 cross-examining the witness, and he's asking the question using
10 the term "morality." I think he wants to know is it fair and
11 equitable, which is going to be the bankruptcy term, to allow
12 management to be paid transition fees while shareholders get
13 wiped out. And Mr. Schlappig, I want you to answer that
14 question, which is what I think that the examiner is asking to
15 you.

16 THE WITNESS: Yeah, they are providing direct value
17 to the estate by agreeing to facilitate a transition of the
18 business to a new management team. So yes.

19 BY MR. WECKINGTON:

20 Q Yes -- yes what? Yes, it's immoral?

21 A Yes, it's -- it's a -- it's an appropriate arrangement to
22 enter into to ensure a value maximizing outcome for all
23 stakeholders.

24 Q At the expense of the shareholders -- what -- they
25 (indiscernible) the directors, then the shareholders. They



1 take our (indiscernible), and they wanted money. We're going
2 to be there for you, we're going to fight this together. And
3 now all of a sudden when it comes to it, they're taking 35
4 million and leaving shareholders with nothing. Even if they
5 gave the shareholders half of that now, that would be roughly
6 ten cents a share. For (indiscernible) sake, we need some
7 justice here.

8 THE COURT: All right. Do you have a question for
9 this witness? I'm going to let you make a closing statement
10 later when we close the evidence. Do you have a question for
11 Mr. Schlappig about this?

12 MR. WECKINGTON: I'm just -- I'm just -- I know he's
13 just doing a job. I'm just a layman, I a normal guy who's
14 called. So I just wanted to (indiscernible) come together and
15 why don't you split that 35 million and give 18 million to
16 shareholders? That is the righteous thing to do. All the
17 self-respect, there must be some self-respect, surely?

18 THE COURT: All right. I'm going to go ahead and
19 close the examination.

20 MR. WECKINGTON: They're (indiscernible) --

21 THE COURT: I'm going to let you make a --

22 MR. WECKINGTON: In the morning -- in the morning --
23 (indiscernible).

24 THE COURT: I'm going to let you make a closing
25 argument, but this isn't the time. This is the time to ask



1 Mr. Schlappig questions. If you have another question for him,
2 go ahead.

3 BY MR. WECKINGTON:

4 Q Mr. Schlappig, is there any -- any way you could -- you
5 could help the shareholders, give them -- give them some scraps
6 from the table? Something, get your heads together. That --
7 and that's (indiscernible) Mooky and his brother, and hold
8 their heads up high, at least to find something. That's all
9 that's happened. I'm asking you if you can try and -- try
10 and --

11 THE COURT: All right. That's a closing argument.
12 That's not a question for the witness. Thank you, sir. Let's
13 go on with the evidentiary record.

14 MR. WECKINGTON: Thank you.

15 THE COURT: Are there any other questions for
16 Mr. Schlappig?

17 MR. WECKINGTON: Thank you so much for giving me the
18 time, I appreciate that. And I'm glad you're (indiscernible).
19 Have a good day.

20 THE COURT: Thank you. All right. Are there any
21 further questions for Mr. Schlappig? All right. Any further
22 evidence.

23 MR. CAMPBELL: There was no further evidence from the
24 debtors, Your Honor.

25 THE COURT: Thank you. Is there any party that



1 wishes to introduce any evidence that hasn't yet had the
2 opportunity to do so? We'll take any remaining evidence. I
3 know that I have a lot of shareholders on the phone, and I want
4 to -- wait, we do have someone. Hold on. From the 505 area
5 code. It's (505) 490-1862. Who do we have on the line?

6 MR. LUPE: Yes, Your Honor. I do have a quick
7 question.

8 THE COURT: All right. Tell --

9 MR. LUPE: What are you -- what is --

10 THE COURT: Tell me your name please?

11 MR. LUPE: Justin Lupe, sir.

12 THE COURT: I'm sorry, I didn't hear you.

13 MR. LUPE: I -- my name is Justin Lupe.

14 THE COURT: All right. Go ahead, please. Do you
15 wish to introduce some evidence?

16 MR. LUPE: I just wanted -- because in back in -- in
17 2020 we -- I got released from my job from Regal, and we were
18 still on the payroll, and that we never got an opportunity to
19 come back. And my question is are we going to be getting my --
20 something because of what happened during COVID?

21 THE COURT: So there is nothing in the proposed plan
22 that requires the debtor, Regal, to pay you anything in terms
23 of further severance pay. If you didn't receive your full
24 wages, there is nothing in the plan that would stop you from
25 making a claim for that. But if you received your full wages,



1 there isn't any transitional money that is made available to
2 employees under the plan. Does that answer your question?

3 MR. LUPE: Yes, Your Honor, thank you.

4 THE COURT: Thank you. Does any party have any
5 further evidence to introduce? Okay. I'm going to address the
6 shareholders just for a moment.

7 The funds that are invested in a business come from a
8 large number of sources. We have funds that might come from
9 public entities to support the development of facilities. We
10 have funds that come from public bondholders who invested in
11 the debt of the corporation. We have secured claims. We have
12 trade creditors who sold goods and services to the business.
13 And we have shareholders who invested in the equity of the
14 business. And all of those form the capital structure of the
15 business. The law requires, it doesn't simply permit, but
16 under Section 1129(b) of the Bankruptcy Code, a plan must be
17 fair and equitable. And the law requires that those that have
18 capital invested in a business get paid prior to the holders of
19 shares.

20 Shareholders take the first risk of failure of a
21 business. That is true under the law of every state in the
22 United States. It's true under the federal law of the United
23 States, and I believe it's true in most Western economies. I
24 won't say that with absolute certainty. The expected returns
25 on equity are usually higher than they are on debt because that



1 reflects the greater risk that is taken in a capitalistic
2 society by equity holders. Fairness is described by the
3 Bankruptcy Code and mandated that fairness requires that we
4 follow that capital structure. That means that some people are
5 going their life savings. That means other people that have
6 made investments are going to lose money even if it isn't their
7 life savings. But people that own shares in this business will
8 not receive a distribution because those that either lent
9 money, or were trade creditors of the business aren't being
10 paid in full under this plan. There is simply no value there,
11 so the law doesn't allow that payment.

12 And from a fairness point of view under the law, and
13 under just the fundamental principles of capitalism, debt gets
14 paid before equity. That's what happens. And that is what is
15 going to happen today. It's not that I haven't heard the
16 shareholders, it's not that I haven't stayed up at night
17 worrying about the shareholders. It's that what the
18 shareholders seek to get isn't what the law allows them to get.
19 And I want the shareholders to hear that directly from me. I
20 know that you're going to make that argument in closing,
21 Mr. Sussberg, and I'm going to certainly let you do that. I'm
22 going to let the shareholders make their argument.

23 But I just wanted to conclude the evidentiary record
24 by telling them I've read every letter that's been sent in.
25 I've looked hard at whether there is any equity here, and I



1 have to apply the law, and that is what is going on. This is
2 not an attempt to steal a company from the shareholders. Your
3 equity was stolen by a disease and a virus that spread around
4 the world. And that risk was on shareholders and not on the
5 creditors. The creditors are losing a lot of money, too. But
6 the first risk goes to shareholders.

7 So with that said, we're going to move to closing
8 arguments. Mr. Sussberg, go ahead, please.

9 MR. SUSSBERG: Your Honor, can you hear me okay?

10 THE COURT: Yes, sir.

11 MR. SUSSBERG: Thank you, Your Honor. Bittersweet is
12 how I would describe this because I think you look no further
13 than the Greidinger brothers, who's continued a family business
14 and stands to lose close to a billion of dollars of equity
15 value. They were the largest equity holders in this company.

16 And unfortunately, because of COVID-19, this company
17 was brought to its knees. In addition to COVID-19, there have
18 been fundamental changes in the movie business as we know it,
19 and we've talked about that throughout the duration of these
20 cases. And as a result of those fundamental factors, totally
21 outside of the control of this management team, this business
22 had to be restructured entirely. And as a result, more than
23 \$4 billion of indebtedness will be extinguished from this
24 balance sheet, and the company will be completely recapitalized
25 with new money, both in the form of debt and equity financing.



1 There is no world in which there is value to satisfy
2 the secured claims, let alone the unsecured claims, and then
3 finally the equity as you had explained, Your Honor. The
4 absolute priority rule guides us all. I wish it was something
5 different in these cases because I truly think it is a function
6 of outside controls that brought this company to where it is.
7 But we get hired to help realize and effectuate the reality of
8 the situation we're dealing with, and the situation we were
9 dealing with, as Your Honor is well aware, is a company that
10 was out of liquidity and had way too much indebtedness.

11 I think the evidence today is uncontroverted,
12 Your Honor, that we satisfied all of the 1129 factors. This
13 plan is fair and equitable in all respects.

14 As it relates to the management team, and again, you
15 know the bittersweet comments, I would like to address the
16 comments that were made around the transition services
17 agreement. First and foremost, these management folks have
18 really become, you know, close friends. And I'd often call
19 them family. It's been an absolute pleasure and an honor to be
20 able to represent them, and I find them to be of the highest
21 quality and hardest working that I may have seen throughout my
22 20 years doing this. I truly think that they are the best in
23 the business and the smartest and most capable, and they built
24 an unbelievable company that is going to restructure because of
25 COVID, and continue doing all of the things that it does.



1 They did, in fact, negotiate with our secured lenders
2 who are deeply impaired, a transition services agreement that
3 requires them to provide 12 months of service, that requires
4 them not to compete for a period of time, that requires them to
5 dedicate their time to an effort that may result at the end of
6 that period, without a job.

7 I again, think everyone listening should know that
8 these folks are best in class and so maybe there's an
9 opportunity for some or all of them continue working with this
10 business. But there is no guarantee.

11 And I will tell you when we say hard-fought, that was
12 a hard-fought negotiation with world class advisors and kudos
13 to Arnold & Porter, Akin Gump and Houlihan, and then obviously
14 AlixPartners was our -- Jackson Walker and Kirkland. But we
15 negotiated something was important to this business and
16 important to the value of this business, and that's the reason
17 for it. It is 100 percent moral. It is 100 percent fair and
18 equitable, and I would say it's vital to the continuation and
19 longevity of this business.

20 THE COURT: So Mr. Sussberg --

21 MR. SUSSBERG: As far as the valuation, Your Honor --

22 THE COURT: Mr. Sussberg, my view of it is a little
23 bit different than you. I accept it was done at an arm's
24 length basis, but the complaints aren't coming from those that
25 would benefit if the \$35 million weren't spent. The complaints



1 need to come from somebody under the Constitution of the United
2 States with standing, meaning that their returns would be
3 different if I struck the \$35 million deal.

4 And it's my understanding that if none of the
5 \$35 million were paid, it still wouldn't go to the shareholders
6 because they are deeply, deeply, deeply behind all sorts of
7 debt. So under the Constitution, they don't have standing to
8 raise issues that don't affect their pecuniary interest.

9 Others do. Others could have raised it. But on a
10 prima facie base, you've shown what you've shown, and I agree
11 with that, but it won't affect the shareholders one bit. And
12 the new owners have the right to spend their money, the way
13 they want to spend it.

14 So go ahead, but I wanted to be sure and -- I have to
15 deal with the standing issue under the Constitution and Supreme
16 Court authority.

17 MR. SUSSBERG: Yes, I totally agree, Your Honor, of
18 course. And what I was going to say that our secured lenders,
19 who will be the 100 percent owners of this business, have
20 contracted with the executives to provide those services and
21 various terms included in those agreements. Absent the
22 management team agreeing to the transition services agreement,
23 there is no money that was going to unsecured creditors, let
24 alone the equity owners. That is clear. And it's the new
25 owners that bargained for these services.



1 Your Honor, on the valuation, I think without
2 question, this is a proper valuation. You heard from
3 Mr. Schlappig. You've heard from Mr. Zelin and throughout
4 these cases, PJT is a world-class organization. They put their
5 full effort into pulling together a valuation and what's more,
6 they ran a worldwide marketing process that yielded no results
7 anywhere clear being able to hurdle our indebtedness. And as a
8 result, there is no question that this valuation is appropriate
9 and was done with the highest quality. And I appreciate
10 Mr. Schlappig's comments today.

11 Finally, Your Honor I wanted to just thank a few
12 people. And then obviously we'll hear closing argument, and
13 I'll reserve on that. I want to thank the Kirkland team led by
14 Ms. Foster. Now, this has been a difficult case over the
15 course of a year but we've persevered through her leadership
16 and everyone's contributions. And I really appreciate
17 everything she's done.

18 I wanted to thank Mr. Mesterharm, obviously
19 Mr. Zelin, Mr. Schlappig. I wanted again to thank the
20 management team. Again, it's been an honor and a privilege.
21 The U.S. Trustee's office who's worked with us closely
22 throughout this case.

23 And finally, Your Honor, I do -- a bittersweet moment
24 for me because I think this will probably be our last
25 confirmation hearing together. And I did want to just



1 acknowledge that it's been an honor, an absolute privilege, to
2 be able to appear before you. And again, I apologize for not
3 being there in person. It was my intention. But you are
4 someone that I admire and respect and I've really appreciated
5 the opportunity to appear in front of you now for close to a
6 decade. And I just wanted to thank you. You are very patient,
7 as we can tell today. And again, the honor has been all mine.
8 Thank you, Your Honor.

9 THE COURT: Mr. Sussberg, thank you. Does anyone
10 else wish to make a closing statement?

11 MR. LOHAN: Good morning, Your Honor. Again for the
12 record, Brian Lohan from Arnold & Porter on behalf of the
13 Legacy secured lenders. I want to take one second to tie
14 together Mr. Perez's response to a question you asked him in
15 opening and Mr. Sussberg's comments just now, as well as the
16 evidence.

17 Just by way of reference, the Legacy secured lenders,
18 the estimated recovery is 3.4 percent and that's in -- you can
19 find that in Docket Number 1946, at Paragraph 9. That's the
20 only substantive comment I had to make during closing.

21 I did want to make one non-substantive comment.
22 Don't want to presume the outcome of this hearing, but I did
23 want to take a second on behalf of this ad hoc secure lenders
24 and their advisors, including Akin -- our co-counsel, Akin
25 Gump, Mr. Dublin, and Mr. Messersmith who wanted to be here



1 today, but weather prevented them from arriving, as well as
2 Houlihan Lokey and Hilco, to thank the debtors, their
3 management, and their professionals for their hard work in
4 getting to this point today. I don't think we can overstate
5 the amount of work that went into this case over the almost
6 past year.

7 Also want to thank the Committee and their
8 professionals. They were constructive and practical throughout
9 these cases. And in light of the outcome to their
10 constituents, I think they did a great job.

11 Also want to thank Judge Lopez for his time and
12 effort in mediation. And last but not least, I do want to
13 thank the Court and your staff, and specifically, I want to
14 thank Your Honor for your flexibility, your time, and your
15 guidance throughout these cases and all the other cases that
16 we've done before you.

17 THE COURT: Mr. Lohan, thank you.

18 MR. LOHAN: Thank you.

19 THE COURT: Anyone else in court wish to make a
20 closing statement?

21 All right. From the 214 area code, who do we have?

22 MS. PERRY: Good morning, Your Honor. Deborah Perry
23 with Munsch Hardt Kopf & Harr. I represent CJ 4Dplex in the
24 bankruptcy case.

25 And the debtors had agreed yesterday to read an



1 agreement into the record today in connection with confirmation
2 and I think because we moved from evidence directly to closing
3 argument without addressing the confirmation order, that just
4 got skipped over. So I'm happy to read that into the record or
5 the debtors can certainly do that.

6 THE COURT: So I'm going to get to the confirmation
7 order in a minute. I want to finish closing arguments first.
8 I'll leave your line open and then we'll go there and take up
9 any issues with the form of order.

10 Any other --

11 MS. PERRY: Thank you, Your Honor.

12 THE COURT: Any other closing arguments? If you're
13 on the phone and you wish to make a closing argument, you'll
14 need to press "five star" one time.

15 All right. I find that the plan meets all of the
16 requirements of Section 1129 of the Bankruptcy Code. There has
17 been a proposed order submitted that goes through in detail why
18 it does that. I have probably a dozen comments on that order,
19 and there may be additional changes that are going to be
20 announced today, which is pretty common in order to have pulled
21 everyone together, as Ms. Perry has suggested.

22 I think this plan, most importantly, is an arm's
23 length plan filed in good faith and intended to preserve jobs
24 and a business and capital into the future out of one of the
25 businesses that operates throughout the world. I'm going to



1 confirm the plan and we're going to go through the order in
2 detail to see what we need to do.

3 Ms. Whitworth, what comment did you have? Go ahead,
4 please.

5 MS. WHITWORTH: Thank you, Your Honor, Jana Whitworth
6 on behalf of the United States Trustee. I just wanted to go on
7 the record. It's not really an argument, Judge. Just wanted
8 to let the Court know that the U.S. Trustee is supportive of
9 the plan and all the issues that we've had with the debtors --
10 the language in the plan has been cured and we're happy with
11 the results, Judge.

12 THE COURT: Ms. Whitworth, thank you for that
13 announcement. So I think what I should do is take whoever
14 wants -- whoever's in charge of the confirmation order and let
15 you make announcements as to what additional changes you've
16 agreed to with parties, have you submit those to me this
17 afternoon if possible. But I want to go through them so that
18 people can hear them on the record, and then I'm going to come
19 back at you with my comments, only one of which I think is
20 really substantive. But -- and the others I think are just
21 reflecting -- trying to reflect the deal better.

22 The one that's substantive is I'm not seeing a reason
23 to waive the 14-day stay of the order so that an orderly appeal
24 could be taken. Is there a reason why we're being asked to
25 waive the 14 days?



1 MR. CANDEL: Yes. Good morning, Your Honor. Peter
2 Candel of Kirkland & Ellis on behalf of the debtors.
3 Your Honor, the reason that we included the 14-day waiver there
4 is for two principal reasons. One, we are assuming various
5 leases pursuant to the plan. And we would like the effective
6 date of that assumption to be at the confirmation date, given
7 that we do have some agreements with landlords consensually to
8 make certain payments by month end. And so we believe if we
9 delay the effectiveness of the confirmation order, we may be
10 prohibiting the ability to pay those cures in a timely fashion.

11 And second, Your Honor, we would like to send a
12 message of finality to our stakeholders, employees, and
13 vendors, to give them that sense of comfort as well.

14 THE COURT: I'll -- I'm happy to include language in
15 the confirmation order that says that assumed leases will be
16 assumed effective as of the confirmation date, but I'm not
17 going to waive the 14-day stay. I mean, that -- the reason
18 you're giving to waive the 14-day stay would be true in every
19 case, everywhere, every time. And I don't think that I should
20 waive it, especially when I've got a contested confirmation
21 hearing and I want to preserve the right of the shareholders to
22 object. Other than that, I don't think you're going to hear
23 substantive issues that I'm going to raise with that order.

24 MR. CANDEL: Understood. Thank you, Your Honor.

25 THE COURT: But you can include a provision that



1 makes the leases that are assumed, assumed effective as of
2 June 28th, and that's fine.

3 MR. CANDEL: And just to clarify, Your Honor, so the
4 debtors will also have the authority to pay related cures as of
5 the entry of the order?

6 THE COURT: You can put all of that in there. Yeah.

7 MR. CANDEL: Thank you, Your Honor.

8 THE COURT: None of that moots -- none of that would
9 moot an appeal. So yep, you're welcome to do all of that.

10 So I do want to announce what other changes you have.
11 Let me open my order. My order is filled both with a couple of
12 times where I've edited and more times that I've just made
13 comments to myself. But for the ease of review by everyone,
14 I'm just going to put it up on the screen, including sort of
15 scribblings to myself. And again, there aren't that many, but
16 you'll see them.

17 MR. CANDEL: Your Honor, I was going to offer up a
18 page flip through the 190-page confirmation order, but this
19 seems like a more efficient route to go about the comments.

20 THE COURT: Yeah, if you'll just tell me I think
21 paragraph numbers.

22 MR. CANDEL: Yes, Your Honor.

23 THE COURT: A lot of -- it's actually only about 90
24 pages. I think the rest is the plan itself --

25 MR. CANDEL: With the attachments?



1 THE COURT: Yeah. So where do you want me to go?

2 MR. CANDEL: Your Honor, relative to the proposed
3 form of order that we filed Monday evening at Docket Number
4 1948, there's only one change that we would like to add, which
5 is --

6 THE COURT: Okay. This is 1948? That is the one I
7 read?

8 MR. CANDEL: That's correct. So we received outreach
9 from one of our studios, Sony Pictures. And what we would like
10 to do, Your Honor, is Paragraphs 144 to 147 as they relate to
11 Paramount, we are simply going to have that same exact language
12 apply to Sony Pictures. And so if it works for Your Honor,
13 we're happy to revise and submit a revised form of order
14 shortly after the hearing concludes along with any other
15 changes you may have.

16 THE COURT: Ms. Perry had indicated that you've
17 agreed to some additional changes for her.

18 MR. CANDEL: Yes, that is just a statement on the
19 record, Your Honor. All of the cure disputes that we have
20 outstanding as of today, the entry of the confirmation order
21 will not prejudice the counterparty's rights. The debtors will
22 hope -- you know, hopefully reconcile those consensually and if
23 needed, we will come back for the Court to adjudicate. But all
24 parties' rights with respect to any pending cure disputes as of
25 today are preserved and that includes with respect to CJ



1 4Dplex, which is -- as counsel noted, is her client, as well as
2 Vista and any other parties, including landlords, where we are
3 working to reconcile those on a consensual basis.

4 THE COURT: So probably six or eight of my comments
5 go to that question where I have a confirmation order that's
6 inconsistent with that statement. I want to put what you just
7 said into the order itself so that I don't have one place that
8 says, we're done, it's assumed, and other places that say it's
9 not. I want to go through and clean that language up and
10 you'll see. But on the ones that say, these are assumed, I
11 want it to say "subject to Paragraph X," and X will have
12 effectively the statement that you have made in it.

13 MR. CANDEL: Of course.

14 THE COURT: Otherwise, I'm afraid I've got an oral
15 statement that would contradict my written confirmation order,
16 and frankly, I don't think you want that.

17 MR. CANDEL: That's right, Your Honor. We're happy
18 to make that change. That -- that's not our intent to have
19 that inconsistency.

20 THE COURT: Mr. Etkin, go ahead, please.

21 MR. ETKIN: Good morning, Your Honor. This is
22 Michael Etkin from Lowenstein Sandler. We represent Financial
23 Recovery Services, and my only comment with respect to the
24 order goes to the colloquy that just took place. We don't have
25 a cure issue. We have a rejection issue, so whatever that



1 language is that reserves rights as to those, I filed
2 objections, whether it's cure or rejection, that those rights
3 are preserved. Because just looking at Paragraph 102 of the
4 proposed order, which talks about the confirmation order
5 constituting a final order approving rejections of executory
6 contracts, that just needs to be clarified so those that filed
7 objections as to rejection as well as cure, that those rights
8 are preserved.

9 THE COURT: I agree with that. We want to be sure
10 that those are preserved. I think that I will tell you I've
11 expressed this opinion over the last ten years, three or four
12 times, and let me express it to you so when we get to the
13 argument in the case, you're not going to be surprised by this.

14 The Supreme Court says that rejection is a breach.
15 There's an argument as to whether this contract is executory or
16 not. Executoriness matters as to the ability to assume, but it
17 doesn't matter as to the ability to reject in my view because a
18 non-executory contract can simply be breached by a plan, which
19 would probably give rise to the same prepetition claim.

20 However, you raise in your argument that you have
21 provided post-petition services that may amount to an
22 administrative claim. So even if I'm right in my prior
23 statements -- and I'm now speaking to others about this. To
24 the extent that the evidence shows that they provided post-
25 petition services, they may have an administrative claim for



1 the post-petition services that are provided and the value of
2 those, I don't know. But I don't think that the fact that
3 post-petition services were provided can transmogrify a
4 prepetition claim into a post-petition one.

5 Having said all that, I want to preserve the rights,
6 but I know it's going to be an argument and I want y'all
7 prepared for it, and I want briefing by both sides to either
8 prove up or disprove the position that I've taken so many times
9 over the years, which is on a contract that is being rejected,
10 it is irrelevant whether it turns out to be executory or not,
11 because it can simply be breached. And the breach still would
12 give rise only to a prepetition claim, not an administrative
13 one.

14 If I'm wrong about that, this will be the time to
15 brief it. Mr. Perez?

16 MR. PEREZ: No. No, Your Honor, we agree with
17 Mr. Etkin that this is reserved to another day and the
18 Committee did file an objection last night. I don't know if
19 the Court was aware that.

20 THE COURT: I did, I read that. Yep. Thank you.
21 All right. Go ahead.

22 MR. CANDEL: Your Honor, with those two
23 clarifications, the one with respect to Sony Pictures in the
24 order, and the clarification on the record with respect to cure
25 objections, the rest of the order, Your Honor, unless there's



1 any comments that you wish to walk through, is all set from our
2 perspective.

3 THE COURT: Okay, well then let me go through my
4 comments. Like I said, I don't think they're very substantive,
5 but --

6 MS. PERRY: Your Honor, I'm --

7 THE COURT: Ms. Perry, go ahead.

8 MS. PERRY: I apologize for interrupting.

9 THE COURT: No, go ahead Ms. Perry.

10 MS. PERRY: Thank you. There was very specific
11 language that we provided to the debtors that they agreed to in
12 connection with CJ 4Dplex. And part of that is because they
13 have extended my client's objection deadline to both assumption
14 and cures so it's not limited to the cure amount, but also with
15 respect to the assumption any of our contracts. And so we
16 actually would request that our specific language is included
17 in the confirmation order. I'm happy to read that into the
18 record now.

19 MR. CANDEL: And Your Honor, if it's helpful -- and
20 apologies if we misstated the agreement. Since we're going to
21 submit a revised form of order, given that the agreement -- I
22 believe the language that is being sought is not substantively
23 different with what we're seeking to do. We're happy to
24 include that language in the revised form of order that we
25 submit to Your Honor after this hearing.



1 THE COURT: Well, is it going to be identical to what
2 Ms. Perry's getting ready to read or do we need to fight it
3 out?

4 MR. CANDEL: No, we have -- had reviewed the language
5 and we had -- I had understood that with the clarification I
6 had made, that it resolved that language. But we have seen it
7 and we do not have any substantive issue with it, so I don't
8 believe there's going to be an issues with including it. And
9 we will coordinate with Ms. Perry to ensure that it's the
10 language that she is comfortable with.

11 THE COURT: Is it the language that she last
12 submitted to you or not the language that she last submitted to
13 you?

14 MR. CANDEL: Yeah. Yes, Your Honor. The last
15 language that she submitted to us.

16 THE COURT: All right. Ms. Perry, is that okay?

17 MS. PERRY: That's acceptable, Your Honor. Thank you
18 very much.

19 THE COURT: Thank you. This is going to take a
20 minute. It's a long order and I'll have to find my comments.
21 So on Paragraph -- Page 15, we're in Paragraph 26. I am
22 unwilling to find that something that I haven't seen will be
23 fair and will have been negotiated in good faith. I think this
24 needs to be changed to say -- to take out that sort of
25 forecasting language, and then simply to authorize you to say



1 that you can negotiate the balance of the documents that are
2 consistent with the plan.

3 MR. CANDEL: Understood, Your Honor. Of course, no
4 issues with that change.

5 THE COURT: So this Paragraph 41 was my first
6 attempt -- and you can kind of forget the particular language
7 there -- to say that there's going to be a paragraph coming
8 that preserves all of these lease rights, similar to what
9 Ms. Perry described and what you've described. And so whenever
10 we have one of these things that says the leases are assumed, I
11 just want to refer and say it's subject to that paragraph
12 you're going to add.

13 MR. CANDEL: Understood, Your Honor. And we had
14 discussed with the landlord constituency in terms of ensuring
15 that, to the extent there's any ability to object to assumption
16 and cures, that we wanted to ensure it was preserved so fully
17 aligned with these clarifying edits.

18 THE COURT: Thank you. I can't find any listing of
19 the officers in the plan supplement.

20 MR. CANDEL: Your Honor --

21 THE COURT: You know, the last night's plan
22 supplement listed I think some directors by name and others in
23 theory, but no officers.

24 MR. CANDEL: That -- that's correct, Your Honor. So
25 in the plan settlement that was filed last night, we disclosed



1 the chair of the new board, as well as the parameters that will
2 set forth how the additional members of the new board will be
3 selected. And those will be disclosed in an amended plan
4 supplement prior to the effective date. In terms of the
5 officers, that will also be disclosed in due course.

6 As things stand today, you know, the period between
7 confirmation and effective date, the identities of the current
8 management and the current board are known. So at all times
9 between now and the effective date, it will be disclosed who
10 is -- who holds the manager roles.

11 THE COURT: I think this is similar to the other one.
12 I can't bless something that doesn't exist, right? So I don't
13 have a problem that you're -- and in the new disclosures to the
14 board, I think you do describe the process for appointment of
15 the board. I'm okay with all that.

16 On the officers, I don't think you give that process.
17 And if what you want me to do is to approve names, I can do
18 that. If you want me to approve process, I can do that, but I
19 can't approve names or processes that you haven't told me
20 about. And so that's the problem with 62, and it's easy to
21 fix. I just need it fixed.

22 MR. CANDEL: Your Honor, would it be helpful if an
23 amended supplement was filed that disclosed how those officers
24 would be selected?

25 THE COURT: Yeah, that would work. And if it's



1 easier than doing it in the plan supplement, you can just put
2 it in that paragraph --

3 MR. CANDEL: Perfect.

4 THE COURT: -- and just say it's disclosed. Yeah.
5 In this order, they're going to be selected -- I would presume
6 by a majority of the board, you know, but I -- if you want me
7 to approve it somehow, you got to tell me what it is.

8 MR. CANDEL: Understood. Thank you, Your Honor.

9 THE COURT: Why am I making this finding in Paragraph
10 72? I think it has nothing to do with any requirement of 1129.
11 And I didn't understand why I'm making that finding.

12 MR. CANDEL: Your Honor, I believe there was to state
13 that the plan is both fair and equitable and also does not
14 unfairly discriminate. If Your Honor believes that that is not
15 required for --

16 THE COURT: Well, take me to 1129 and tell me what
17 are we doing here? Because I couldn't figure out why this is
18 even here.

19 MR. CANDEL: Your Honor, I believe it -- it's further
20 support that we're not treating similarly-situated creditors
21 differently. So it's not a matter of, you know, having
22 different classes of similarly-situated creditors and giving
23 one class different treatment than the other.

24 THE COURT: No, this is an 1129(b) paragraph. Why am
25 I -- I just -- I don't even understand the --



1 MR. SUSSBERG: You can take this out.

2 THE COURT: Just take it out?

3 MR. SUSSBERG: Yes.

4 THE COURT: Okay. Thank you. It always bothers
5 Mr. Sussberg when I read his orders.

6 MR. CANDEL: I also pushed back on that provision,
7 Your Honor, but I was overruled.

8 THE COURT: I didn't understand, "This shall be
9 immediately effective and enforceable" language.

10 MR. CANDEL: Your Honor, happy to take that out --

11 THE COURT: Okay.

12 MR. CANDEL: -- given it is subject to other
13 provisions.

14 THE COURT: So -- and then the second comment here in
15 that paragraph is the same one about we have executory
16 contracts and leases, et cetera. So I need this cross-
17 reference again to the new paragraph you're going to put in.

18 MR. CANDEL: Understood. Will do. Thank you,
19 Your Honor.

20 THE COURT: Same thing in Paragraph 100. Yeah, I
21 think this is really the same comment. So if we have a
22 disputed one, we're not approving it today.

23 MR. CANDEL: Right.

24 THE COURT: This is the same comment I made earlier
25 that I'm not going to approve documents I haven't seen, but I



1 will authorize you to enter into documents that are consistent
2 with the plan. That's in Paragraph 103.

3 MR. CANDEL: Understood. We'll make that change,
4 Your Honor.

5 THE COURT: Yeah, this really didn't make sense to
6 me, this, "The later of the effective date and the date on
7 which distributions are made pursuant to the plan." The shares
8 are canceled now because there is no distribution made on them.

9 I don't have a problem if you want to rewrite this to
10 say that as to claims and interests on which there is a
11 distribution made, they're canceled as of the distribution
12 date. As to claims and interest on which there is no
13 distribution to be made, they're canceled on the effective date
14 of the plan. But we shouldn't be linking the cancellation of
15 the shares to a distribution to a non-shareholder.

16 MR. CANDEL: Understood, Your Honor. This comment
17 came from the convertible bonds trustee, where they wanted to
18 ensure that the documents still were in effect until the
19 decisions were made. So we'll clarify that to make clear.

20 THE COURT: Thank you. Paragraph 110, the way that
21 the procedures work, it says no distribution made from less
22 than 250, but then it says, however, for unsecured creditors,
23 it won't be -- you need to look, but it basically didn't work.
24 So let me go to Article 7 of the plan. I'm going to -- I'll
25 pick this up in a minute when I get down to Article 7, but this



1 is a mechanical problem that I didn't think worked.

2 11 doesn't work. You don't get to reclassify people.

3 MR. CANDEL: That's right, Your Honor. I -- in that
4 provision, we're seeking the right to seek to reclassify, not a
5 unilateral right. So we'll make that change.

6 THE COURT: Thank you. I didn't make any changes to
7 your one-on-one deals that you had, and I understand you're
8 going to add the new one.

9 MR. CANDEL: That's right, Your Honor. Thank you.

10 THE COURT: Page -- Paragraph 164 is just one of my
11 own idiosyncrasies, which is never put in a date and a
12 calculation of the date in case they're different. So I want a
13 fixed date and I want to take out the words "by 90 days."

14 MR. CANDEL: Perfect. We'll strike that, Your Honor.

15 THE COURT: I told you some of these weren't hard,
16 right?

17 177, we've talked about, and you're going to rewrite
18 that --

19 MR. CANDEL: Yep.

20 THE COURT: -- to deal with the lease payments. Let
21 me find now the \$250 issue.

22 MR. CANDEL: Your Honor, I believe it's at Page 159
23 of this docket entry.

24 THE COURT: Great. So I think the first paragraph
25 says you never distribute less than 250. And the second



1 paragraph says it revests in the debtor except with respect to
2 Class 5A and B claims, but then it doesn't say you're going to
3 pay it to the 5A and 5B claimants. So I think it mechanically
4 fails.

5 MR. CANDEL: Your Honor, the thought process there is
6 the litigation trust will be making those distributions to
7 holders in Class 5A and Class B --

8 THE COURT: Okay.

9 MR. CANDEL: -- 5B. And so if a holder in that
10 class -- and it comes back to the litigation trust, the
11 litigation trust then does not have the requirement to send it
12 to the organized debtor. It'll just be dealt with pursuant to
13 litigation trust agreement. That's how we were viewing it.
14 But if the -- this is -- was of course a provision negotiated
15 with the Committee and so I don't want to overstep and mistake
16 the thought process there, but that's how we were viewing why
17 it wouldn't go back to (indiscernible) debtor.

18 THE COURT: So the disbursing agent does not make
19 disbursements to 5A or 5B creditors?

20 MR. CANDEL: The litigation trustee is within the
21 dispersing agent, so it will not need to make distributions
22 less than 250.

23 THE COURT: But doesn't --

24 MR. CANDEL: But to the extent it's a holder in Class
25 5A or Class 5B, and it's an unclaimed distribution or it's



1 below that figure, it doesn't go to the reorganized debtors.
2 It would go back to the litigation trust for the benefit of --
3 however the distributions for the litigation trust assets would
4 be governed pursuant to those documents.

5 THE COURT: Okay. 250 is a lot of money to some
6 trade creditors, right? I mean, can we just pay it to them?
7 You're the command, right?

8 UNIDENTIFIED: Yeah, Your Honor, that was the
9 thought, that the money would be paid.

10 THE COURT: Okay. Let's just fix the first sentence.
11 Where it says -- the first sentence should say, "Except for
12 class" -- "Except for the holders of an allowed -- distribution
13 to holders and allowed general unsecured claims in Class 5A or
14 B, there won't be a distribution at less than 250." And then
15 the second paragraph would work. And I don't want to rewrite
16 the plan, so just put that in the confirmation order if you
17 would, somehow.

18 MR. CANDEL: Perfect.

19 THE COURT: It -- I think that works for everybody,
20 right? Is that -- I don't want to spend more money making a
21 \$250 distribution than \$250, you know, but --

22 UNIDENTIFIED: Correct, Your Honor. There -- there's
23 obviously a point of which it would cost more money to make the
24 distribution than what the person is making and I thought there
25 was some discretion with respect to those if you're getting,



1 you know, a three cent check or something like that.

2 THE COURT: So look, I mean, the plan was a \$250
3 limit for Class 5A and B. Anybody going to object to a \$25
4 minimum distribution limit. Is that okay?

5 UNIDENTIFIED: That's fine, Your Honor. Thank you.

6 THE COURT: That's probably the -- you know, a fairly
7 high admin cost to write a check, but it does cost something.

8 UNIDENTIFIED: Right. Right.

9 THE COURT: Okay. If you'll just --

10 UNIDENTIFIED: \$25?

11 THE COURT: -- fix that in the order, you don't need
12 to redo the plan. I think that's a hassle not worth it.

13 MR. CANDEL: Perfect. We'll incorporate into the
14 revised order that we submit.

15 THE COURT: Okay. Are there any of the changes that
16 I am requesting that are problematic other than I know that you
17 don't really like the 14-day stay issue, but you're going to
18 get it?

19 MR. CANDEL: No, Your Honor. That covers all the
20 changes we wanted to clarify in the record or include and we'll
21 make sure to incorporate all the comments that you walked us
22 through today and submit a revised form of order shortly after
23 the hearing.

24 THE COURT: Okay. Do you think we'll get that done
25 this afternoon or when should I be looking for it?



1 MR. CANDEL: Yes, Your Honor. We should have it to
2 you this afternoon.

3 THE COURT: Okay. If you'll send a note to Mr. Laws
4 that you filed it.

5 What else do we need to undertake today?

6 MR. CANDEL: Your Honor, that's all from my
7 perspective. I'd like to reiterate everyone's thanks not only
8 to Your Honor and the Court, but to all the other parties in
9 interests. So unless there's any final, final remarks from
10 Mr. Sussberg or Ms. Foster, I believe that all -- that that is
11 all we have for today's hearing.

12 THE COURT: Thank you. Anyone else?

13 So, like, I think Mr. Sussberg was right. This is
14 probably my last major confirmation hearing. I'm -- it was a
15 hard hearing, but I appreciate that I'm going to leave, having
16 watched a lot of people do their professional duties in the
17 right way. I'm not leaving the bench. I'm leaving handling
18 major complex cases for confirmation purposes at least.

19 I thank the lawyers that showed professionalism
20 throughout this case and a really hard case. This case
21 exhibited compromising and negotiations that were done fairly
22 and professionally. I always got told the truth by everybody
23 in this case. I was very appreciative of all the hard work
24 that was done, so it's -- as difficult as this was, and as
25 melancholy as the results might be, it was a pleasure to have



1 this as the last case that I deal with in this context. And I
2 want to thank everybody. So thank y'all, and we will go ahead
3 and recess till this afternoon.

4 MR. CANDEL: Thank you, Your Honor.

5 (Proceedings concluded at 10:23 a.m.)

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14 **C E R T I F I C A T I O N**

15

16 I, Alicia Jarrett, court-approved transcriber, hereby
17 certify that the foregoing is a correct transcript from the
18 official electronic sound recording of the proceedings in the
19 above-entitled matter.

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24 ALICIA JARRETT, AAERT NO. 428 DATE: June 30, 2023

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